

II. REMARKS

Formal Matters

Claims 1, 5, 14, and 20-22 are pending after entry of the amendments set forth herein.

Claims 1, 5, 7, 14, and 20-22 were examined and were rejected.

Claim 7 is canceled without prejudice to renewal, without intent to acquiesce to any rejection, and without intent to surrender any subject matter encompassed by the canceled claim. Applicants expressly reserve the right to pursue any canceled subject matter in one or more continuation and/or divisional applications.

Applicants respectfully request reconsideration of the application in view of the remarks made herein.

Claim objections

Claim 7 was objected to. The Office Action stated that claim 7 does not further limit the subject matter of a previous claim.

Claim 7 is canceled without prejudice to renewal, thereby rendering this objection moot.

Oath/Declaration

The Office Action stated that the oath or declaration is defective; and required a new oath or declaration.

The Office Action stated that the oath or declaration is defective because the Declaration filed August 21, 2002 has changes that were not initialed and dated.

A new Declaration is provided herewith, which Declaration is in compliance with the requirements of 37 C.F.R. §1.67(a).

Objection under 35 U.S.C. §132

The amendment filed on July 6, 2004 was objected to under 35 U.S.C. §132 as allegedly introducing new matter.

The Office Action stated that the July 6, 2004 amendment added new Figures 5A and 5B. The Office Action stated that the filing of an appropriate declaration in accordance with MPEP §608.01(p) would suffice to overcome this rejection.

The July 6, 2004 amendment added as amendatory material Figures 5A and 5B, and a description of Figures 5A and 5B. Figures 5A and 5B provide an alignment of apoE amino acid sequences. The amendatory material was taken from Weisgraber ((1994) *Adv. Protein Chem.* 45:249-302; "Weisgraber"), which material was incorporated by reference in the instant specification. A Declaration under 37 C.F.R. §1.132 is submitted herewith as Exhibit 1, which Declaration points out the amendatory material added to the specification, and which states that the amendatory material consists of the same material incorporated by reference in the application.

Applicants submit that the rejection under 35 U.S.C. §132 has been adequately addressed in view of the remarks set forth above. The Examiner is thus respectfully requested to withdraw the rejection.

Rejections under 35 U.S.C. §112, first paragraph

Claims 1, 5, 7, 14, and 20-22 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1, 5, 7, 14, and 20-22 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement.

Written description

Applicants previously addressed the written description rejection in an amendment, filed on July 6, 2004 and responsive to the April 20, 2004 Office Action. See, e.g., pages 6-7 of the July 6, 2004 amendment.

The Office Action stated that the filing of an appropriate declaration relating to incorporation by reference of the alignment of apoE4 sequences, as discussed above, would overcome this rejection. As noted above, a Declaration under 37 C.F.R. §1.132 is submitted herewith as Exhibit 1, which Declaration points out the amendatory material added to the specification, and which states that the amendatory material consists of the same material incorporated by reference in the application.

Enablement

Applicants previously addressed the enablement rejection in an amendment, filed on August 9, 2005 and responsive to the May 17, 2005 Office Action; and in an amendment, filed on March 31, 2005 and responsive to October 1, 2004 Office Action and March 18, 2005 Advisory Action. See, e.g., pages 4-7 of the March 31, 2005 amendment; and pages 4-5 of the August 9, 2005 amendment.

The Office Action stated that the filing of an appropriate declaration relating to incorporation by reference of the alignment of apoE4 sequences, as discussed above, would overcome this rejection. As noted above, a Declaration under 37 C.F.R. §1.132 is submitted herewith as Exhibit 1, which

Declaration points out the amendatory material added to the specification, and which states that the amendatory material consists of the same material incorporated by reference in the application.

Conclusion as to the rejections under 35 U.S.C. §112, first paragraph

Applicants submit that the rejections of claims 1, 5, 7, 14, and 20-22 under 35 U.S.C. §112, first paragraph, have been adequately addressed in view of the remarks set forth above. The Examiner is thus respectfully requested to withdraw the rejections.

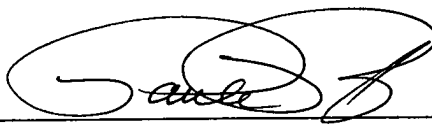
III. CONCLUSION

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number UCAL-222.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: Feb. 1, 2006

By: 
Paula A. Borden
Registration No. 42,344

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303
Telephone: (650) 327-3400
Facsimile: (650) 327-3231